

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

PAUL LOUGH

Plaintiff,

v.

No. 2:16-cv-00338 JCH-SMV

BNSF RAILWAY COMPANY

Defendant.

**AMENDED SCHEDULING ORDER**

This matter is before the Court on Plaintiff's Unopposed Motion to Extend Discovery and Deadlines. The Court, being fully advised, finds the motion well-taken and will grant it. Wherefore, it is HEREBY ORDERED as follows:

The termination date for discovery is **July 17, 2017**, and discovery shall not be reopened, except by an order of the Court upon a showing of good cause. This deadline shall be construed to require that discovery be completed on or before the above date. Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery.

Motions relating to discovery (including, but not limited to, motions to compel and motions for protective order) shall be filed with the Court and served on opposing parties by **August 4, 2017**. See D.N.M.LR-Civ.7 for motion practice requirements and timing of responses and replies. The deadline shall not be construed to extend the twenty-day time limit in D.N.M.LR-Civ 26.6.

All expert witnesses must be disclosed by the parties, even if the expert is not required to submit an expert report. See *Musser v. Gentiva Health Servs.*, 356 F.3d 751, 756-57 (7<sup>th</sup>

Cir.2004); Fed. R.Civ.P. 26(a)(2)(B)&(C);D.N.M.LR-Civ26.3(b). Plaintiff shall identify to all parties in writing any expert witness to be used by Plaintiff at trial and provide expert reports or other disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2)(B)&(C) no later than **March 17, 2017**. All other parties shall identify in writing any expert witness to be used by such parties at trial and provide expert reports or other disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2)(B)&(C) no later than **April 30, 2017**.

Pretrial motions, other than discovery motions, shall be filed with the Court and served on opposing parties by **August 16, 2017**. Parties shall have fourteen days to respond to Pretrial motions, and replies, if any, will be due seven days after the response is filed. Any pretrial motions, other than discovery motions, filed after the above dates shall be considered untimely in the discretion of the Court.

If documents are attached as exhibits to motions, affidavits, or briefs, those parts of the exhibits that counsel want to bring to the attention of the Court must be highlighted in accordance with D.N.M.LR-Civ.10.6.

Motion practice must be conducted in accordance with the local rules. In particular, the Court would highlight Local Rule 7.4 which provides that response and reply deadlines “may be extended by agreement of all parties. For each agreed extension, the party requesting the extension must file a notice identifying the new deadline and the document (response or reply) to be filed. If an extension of time is opposed, the party seeking the extensions must file a separate motion within the applicable fourteen (14) day period.” D.N.M.LR-Civ.7.4(a). Of course, any extension of briefing time must not interfere with the case management deadlines established herein. *Id.*

Counsel are directed to submit a consolidated final pretrial order as follows: Plaintiff to Defendant on or before **October 2, 2017**; Defendant to Court on or before **October 15, 2017**. Counsel are directed that the pretrial order will provide that no witnesses except rebuttal witnesses, whose testimony cannot be anticipated, will be permitted to testify unless the name of the witness is furnished to the Court and opposing counsel no later than thirty (30) days prior to the time set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.

IT IS SO ORDERED.



STEPHAN M. VIDMAR  
UNITED STATES MAGISTRATE JUDGE

Submitted by:

**Barish Rosenthal**

/s/  
Anthony M. DiGiulio, Esquire  
Attorney for Plaintiff

Electronically approved on February 17, 2017, by:

**Modrall Sperling**

/s/  
Tim L. Fields, Esquire  
Attorney for Defendant